

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
5:15-cv-00140-RLV
(5:12-cv-00002-RLV-DSC-1)

THOMAS PHELPS HAMILTON,)
)
 Petitioner,)
)
 v.)
)
UNITED STATES OF AMERICA,)
)
 Respondent.)

)

ORDER

THIS MATTER is before the Court on a review Petitioner's pro se Motion to Vacate, Set Aside or Correct Sentence, filed pursuant to 28 U.S.C. § 2255. (Doc. No. 1).

Rule 2(b)(5) of the Rules Governing Section 2255 Proceedings provides that a § 2255 motion must be signed under penalty of perjury by the petitioner or by a person authorized to sign on his behalf. Petitioner has not signed his motion under penalty of perjury although he does aver that he served it on the Respondent and the Clerk's Office.

Petitioner has not submitted his § 2255 motion on the forms approved in this District, therefore he will be directed to fill out such a form to include the procedural details of his criminal case and submit it under penalty of perjury. Petitioner may reference his initial motion, (Doc. No. 1), and may aver that he has submitted that motion under penalty of perjury and incorporate his arguments by reference. Additionally, in Petitioner's motion, he states that he has attached an affidavit, however there is no such affidavit filed in the Docket. (Doc. No. 1 at 9). In the event that Petitioner seeks to have the Court examine the affidavit, he must file it along with his completed § 2255 motion.

IT IS, THEREFORE, ORDERED that Petitioner shall complete the § 2255 form motion that will be mailed to him by the Clerk's Office. Failure to file the properly executed § 2255 motion to the Clerk's Office within 21-days from entry of this Order will result in dismissal of this civil action without prejudice and without further notice.

IT IS FURTHER ORDERED that Petitioner's motion for discovery is **DENIED without prejudice**. (Doc. No. 2).

The Clerk is respectfully directed to mail a copy this District's form § 2255 motion along with this Order to the Petitioner.

SO ORDERED.

Signed: March 14, 2016



Richard L. Voorhees
United States District Judge

